

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

In re:	)	Case No. 22- <u>60043</u>
	)	
FREE SPEECH SYSTEMS, LLC,	)	Chapter 11 (Subchapter V)
	)	
Debtor.	)	
	)	

**DEBTOR’S EMERGENCY MOTION FOR AN ORDER MODIFYING THE AUTOMATIC  
STAY TO ALLOW THE HESLINS/LEWIS STATE COURT SUIT TO CONTINUE TO  
JUDGEMENT**

---

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED, IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER, IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

RELIEF IS REQUESTED NOT LATER THAN 8:00 A.M. ON AUGUST 1, 2022.

The above-captioned debtor and debtor-in-possession (the “Debtor” or “FSS”), in the above-referenced chapter 11 case (the “Chapter 11 Case”), hereby files this emergency motion (the “Motion”) seeking an order from the Court lifting the automatic stay provision of the Bankruptcy Code to authorize the consolidated state court action styled as *Neil Heslin and Scarlett Lewis v. Alex E. Jones*

and Free Speech Systems, LLC, Cause No. D-1-GN-18-001835, in the 261<sup>st</sup> District Court of Travis County, Texas (the “Heslin/Lewis Suit”) to continue trial to judgment before Judge Maya Guerra Gamble, 459<sup>th</sup> Civil District Court, Travis County (the “Texas State Court”). In support of the Motion, the Debtor submits and incorporates by reference the *Declaration of Marc Schwartz in Support of First Day Motions* (the “First Day Declaration”), filed concurrently herewith. In further support of the Motion, the Debtor respectfully represents as follows:

### **REQUEST FOR EMERGENCY HEARING OR EX PARTE RELIEF**

1. The Debtor seeks emergency consideration of this Motion on or before 8:30 a.m. on August 1, 2022, or as soon thereafter as the Court’s schedule will allow. A jury has been empaneled and trial is underway in the Heslin/Lewis Suit, scheduled to continue at 9:00 a.m. on Monday, August 1, 2022. Emergency relief is necessary to prevent delay in the Heslin/Lewis Suit to the detriment of the Debtor, Plaintiffs Heslin and Lewis, and the members of the jury serving in the Heslin/Lewis Suit.

2. The Debtor further submits that *ex parte* relief pursuant to Rule 4001(a)(2) is appropriate here. The First Day Declaration show the potential for harm if the automatic stay is not granted and this motion is verified by counsel to the Debtor pursuant to Bankruptcy Local Rule 9013-1(i). Notice is not necessary here because the relief sought does not affect the rights of any parties in interest other than the Debtor.

### **JURISDICTION AND VENUE**

3. On July 29, 2022 (the “Petition Date”), the Debtor commenced the above captioned case by filing a voluntary petition for relief under Subchapter V of Chapter 11 of Title 11 of the United States Code §§ 101, *et seq.* (the “Bankruptcy Code”).

4. The Debtor continues in the possession of its property and is operating and managing its businesses as a debtor and debtor-in-possession pursuant to Section 1182(2) of the Bankruptcy Code.

5. No request for a trustee or examiner has been made. No statutory committee of creditors has been appointed.

6. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion are proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory bases for the relief sought in this Motion are 11 U.S.C. §§ 105, 362 and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure.

### **BACKGROUND**<sup>1</sup>

8. In 2018, certain aggrieved parties (the “Texas Plaintiffs”) commenced state-court actions against one or more of the Debtors styled as: (a) *Neil Heslin v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, and Owen Shroyer*, Cause No. D-1-GN-18-001835, in the 261st District Court of Travis County, Texas; (b) *Scarlett Lewis v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC*, Cause No. D-1-GN-18-006623, in the 53rd District Court for Travis County, Texas; (c) *Leonard Pozner and Veronique De La Rosa v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC*, Cause No. D-1-GN-18-001842, in the 345th District Court of Travis County, Texas; (d) *Marcel Fontaine v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, and Kit Daniels*, Cause No. D-1-GN-18-001605 in the 459th District Court for Travis County, Texas; and (e) *Neil Heslin, Scarlett Lewis, Leonard Pozner, Veronique De La Rosa, Marcel Fontaine v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, PQPR Holdings Limited LLC, JLJR Holdings, LLC, PLJR Holdings,*

---

<sup>1</sup> Additional factual background and information regarding the Debtor and the litigation it has faced prior to the Petition ~~Date is~~Date is set forth in the *Declaration of W. Marc Schwartz in Support of Voluntary Petition and First Day Motions*.

*LLC, Carol Jones, David Jones, PQPR Holdings, LLC, JLJR Holdings Limited, LLC, AEJ Holdings, LLC, AEJ Trust 2018*, Cause No. D-1-GN-22-001610, in the 200th District Court for Travis County (collectively, as may have been consolidated, the “Texas State Court Suits”).

9. Two of the Texas State Court Suits—*Neil Heslin v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, and Owen Shroyer*, Cause No. D-1-GN-18-001835, in the 261st District Court of Travis County, Texas and *Scarlett Lewis v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC*, Cause No. D-1-GN-18-006623, in the 53rd District Court for Travis County, Texas—have been consolidated as the Heslin/Lewis Suit. Judge Maya Guerra Gamble, 459<sup>th</sup> Civil District Court, Travis County (the “Texas State Court”) is presiding over the Heslin/Lewis Suit.

10. The trial of the Heslin/Lewis Suit was ongoing as of the Petition Date. On July 25, 2022, the Texas State Court held *voir dire* of jurors and a jury was empaneled. The Texas State Court began taking evidence in the Heslin/Lewis Suit on July 26, 2022. As the result of the filing of the Debtor’s petition for chapter 11 relief, the Heslin/Lewis Suit is stayed by Bankruptcy Code section 362.

11. The Debtor believes that it is in the best interests of its estate and creditors for the Heslin/Lewis Suit to continue to judgement notwithstanding the commencement of this Chapter 11 Case. Substantial resources of the Debtor and Plaintiffs Heslin and Lewis have already been expended in the Heslin/Lewis Suit to empanel a jury and present evidence to that jury. Based on representations made by counsel for Heslin and Lewis in the chapter 11 case of related party InfoW, LLC previously before this Court, the Debtor believes that Heslin and Lewis desire a final judgment from the Texas State Court and would seek relief from the automatic stay absent this request by the Debtor.<sup>2</sup>

---

<sup>2</sup> Cliff Walston, attorney for the Texas Plaintiffs, indicated at the April 22, 2022, hearing in the InfoW, LLC chapter 11 case that the Texas Plaintiffs would be seeking relief from the automatic stay to continue litigation. According to Mr. Walston, the “cases are every bit as much about having a determination final made for them, them having their day in court in which Mr. Jones is held accountable for his conduct. So it’s not just about a liquidating claims procedure, it is very emotional.” *In re InfoW, LLC*, Case No. 22-60020 (Bankr. S.D. Tex.) [ECF No. 39] at 73:8-12.

### **RELIEF REQUESTED**

12. Pursuant to section 362(d) of the Bankruptcy Code, the Debtor seeks an order modifying the automatic stay to permit the Heslin/Lewis Suit to continue to final judgment, but that all further proceedings remain subject to the automatic stay.

### **ARGUMENT**

13. Bankruptcy Code section 362(d) sets forth the general standard for obtaining relief from the automatic stay. This provision provides, “on request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section such as by terminating, annulling, modifying, or conditioning of such stay . . . for cause . . . .” 11 U.S.C. § 362(d)(1). The Bankruptcy Code does not define “cause” and courts must determine when relief from the automatic stay is appropriate on a case-by-case basis.

14. Generally, relief from the automatic stay should be granted to liquidate an unsecured claim only where the “balance of hardships” favors of determining the claim in the creditor’s preferred forum. *See In re UTEX Communs. Corp.*, 457 B.R. 549, 570 (Bankr. W.D. Tex. 2011) (quoting *In re U.S. Brass Corp.*, 173 B.R. 1000 (Bankr. E.D. Tex. 1994); *see also In re Kao*, No. 15-31193-H3-13, 2015 Bankr. LEXIS 4293, at \*6 (Bankr. S.D. Tex. Dec. 21, 2015); *In re Young*, No. 06-80397-G3-7, 2006 Bankr. LEXIS 2934, at \*6 (Bankr. S.D. Tex. Oct. 20, 2006).

15. Modifying the automatic stay to allow the Heslin/Lewis Suit to continue to final judgment, but no further, is appropriate here. A jury has been empaneled, the trial has commenced, and the Debtor and Plaintiffs Heslin and Lewis have participated in the trial. In light of these factors, liquidating the claims of Plaintiffs Heslin and Lewis against the Debtor through the state-court trial in the Heslin/Lewis Suit will harm neither the estate, Plaintiffs Heslin and Lewis, nor other creditors.

**RESERVATION OF RIGHTS**

16. The Debtor reserves any and all rights in connection with the Heslin\Lewis Suit. Nothing contained herein shall operate as a waiver of any of the Debtor's claims, rights or remedies.

**NO PRIOR REQUEST**

17. No previous request for the relief sought herein has been made to this Bankruptcy Court or any other court.

**CONCLUSION**

WHEREFORE, the Debtor FSS requests that the Bankruptcy Court: (a) enter an order, in substantially the form attached hereto, modifying the automatic stay to permit the Heslin\Lewis Suit to continue to final judgment, and (b) grant such other and further relief as is just and proper.

Respectfully submitted this 29th day of July, 2022.

**LAW OFFICES OF RAY BATTAGLIA, PLLC**

/s/Raymond W. Battaglia  
Raymond W. Battaglia  
State Bar No. 01918055  
[rbattagliaw@outlook.com](mailto:rbattagliaw@outlook.com)  
66 Granburg Circle  
San Antonio, Texas 78218  
Tel. (210) 601-9405

*Proposed Counsel to the Debtor and Debtor-In-Possession*

-and-

**SHANNON & LEE LLP**

/s/Kyung S. Lee  
Kyung S. Lee  
State Bar No. 12128400  
[klee@shannonleellp.com](mailto:klee@shannonleellp.com)  
R. J. Shannon  
State Bar No. 24108062  
[rshannon@shannonleellp.com](mailto:rshannon@shannonleellp.com)  
700 Milam Street, STE 1300  
Houston, Texas 77002

Tel. (713) 714-5770

*Proposed Co-Counsel to the Debtor  
and Debtor in Possession*

**CERTIFICATE OF ACCURACY**

I hereby certify that the forgoing statements are true and accurate to the best of my knowledge and belief. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Kyung S. Lee

**CERTIFICATE OF SERVICE**

I hereby certify that on the date of filing, a true and correct copy of the foregoing document was served by (a) the Court's CM/ECF system on all parties registered to receive such service, (b) by U.S.P.S. first class mail on all parties indicated in the attached service list, and (c) the following parties by email:

Attn: Mark Bankson, William Ogden  
Kaster Lynch Farrar & Ball, LLP  
1117 Herkimer Street  
Houston, TX 77008  
[mark@fbtrial.com](mailto:mark@fbtrial.com)  
[bill@fbtrial.com](mailto:bill@fbtrial.com)

Attn: Alinor C. Sterlin, Christopher Mattei,  
Matthew Blumenthal  
Koskoff Koskoff & Bieder  
350 Fairfield Avenue  
Bridgeport, CT 06604  
[asterling@koskoff.com](mailto:asterling@koskoff.com)  
[cmattei@koskoff.com](mailto:cmattei@koskoff.com)  
[mblumenthal@koskoff.com](mailto:mblumenthal@koskoff.com)

Attn: F. Andino Reynal  
Fertitta & Reynal LLP  
917 Franklin St., Suite 600  
Houston, TX 77002  
[areynal@frlaw.us](mailto:areynal@frlaw.us)

Attn: Eric Henzy  
Zeisler & Zeisler P.C.  
10 Middle Street, 15th Floor  
Bridgeport, CT 06604  
[ehenzy@zeislaw.com](mailto:ehenzy@zeislaw.com)

Attn: Shelby Jordan  
Jordan & Ortiz, P.C.  
500 N. Shoreline Blvd. Suite 900  
Corpus Christi, Texas 78401  
[sjordan@jhwclaw.com](mailto:sjordan@jhwclaw.com)

Attn: Avi Moshenberg  
McDowell Heterhington LLP  
1001 Fannin Street, Suite 2700  
Houston, TX 77002  
[avi.moshenberg@mhllp.com](mailto:avi.moshenberg@mhllp.com)

Attn: Cordt Akers  
The Akers Law Firm PLLC  
Cordt Akers  
3401 Allen Parkway, Suite 101  
Houston, TX 77019  
[cca@akersfirm.com](mailto:cca@akersfirm.com)

Attn: Daniel DeSouza  
Copycat Legal PLLC  
3111 N. University Drive, Suite 301  
Coral Springs, FL 33065  
[dan@copycatlegal.com](mailto:dan@copycatlegal.com)

Ryan E. Chapple  
Cain & Skarnulis PLLC  
303 Colorado Street, Suite 2850  
Austin, Texas 78701  
[rchapple@cstrial.com](mailto:rchapple@cstrial.com)

Cliff Walson  
Walsont Bowlin Callendar, PLLC  
4199 San Filipe Street, STE 300  
Houston, TX 77027  
[cliff@wbctrial.com](mailto:cliff@wbctrial.com)

Jon Maxwell Beatty  
The Beatty Law Firm PC  
1127 Eldridge Pkwy, Suite 300, #383  
Houston, TX 77077  
[max@beattypc.com](mailto:max@beattypc.com)

/s/ Raymond W. Battaglia



**USPS Service List**

**Twenty Largest Unsecured Creditors**

Elevated Solutions Group  
28 Maplewood Drive  
Cos Cob, CT 06870

Christopher Sadowski  
c/o Copycat Legal PLLC  
3111 N. University Drive STE 301  
Coral Springs, FL 33065

Atomial LLC  
1920 E. Riverside Dr.  
Suite A-120 #124  
Austin, TX 78741

Cloudflare, Inc  
Dept LA 24609  
Pasadena, CA 91185-4609

Jacquelyn Blott  
200 University Blvd  
Suite 225 #251  
Round Rock, TX 78665

Joel Skousen  
PO Box 565  
Spring City, UT 84662

eCommerce CDN, LLC  
221 E 63rd Street  
Savannah, GA 31405

Paul Watson  
9 Riverdale Road  
Ranmoor Sheffield  
South Yorkshire S10 3FA  
United Kingdom

Brennan Gilmore  
c/o Civil rights Clinic  
600 New Jersey Avenue, NW  
Washington, DC 20001

Greenair, Inc  
23569 Center Ridge Rd  
Westlake, OH 44145

Edgecast, Inc  
Dept CH 18120  
Palatine, IL 60055

Ready Alliance Group, Inc  
PO Box 1709  
Sandpoint, ID 83864

Getty Images, Inc  
PO Box 953604  
St. Louis, MO 63195-3604

RatsMedical.com  
c/o Rapid Medical  
120 N Redwood Rd  
North Salt Lake, UT 84054

David Icke Books Limited  
c/o Ickonic Enterprises Limited  
St. Helen's House King Street  
Derby DE1 3EE  
United Kingdom

WWCR  
1300 WWCR Ave  
Nashville, TN 37218-3800

JW JIB Productions, LLC  
2921 Carvelle Drive  
Riviera Beach, FL 33404

CustomTattoNow.com  
16107 Kensington Dr. #172  
Sugar Land, TX 77479

AT&T  
PO Box 5001  
Carol Stream, IL 60197-5001

Justin Lair  
1313 Lookout Ave  
Klamath Falls, OR 97601

Parties Claiming Interest or Lien Affected

PQPR Holdings Limited, LLC  
c/o Stephen Lemmon  
1801 S. Mopac Expressway  
Suite 320  
Austin, TX 78746

Parties Filing Notice of Appearance

N/A

Subchapter V Trustee

N/A (Not Yet Appointed)

U.S. Trustee

Office of the U.S. Trustee  
515 Rusk Ave STE 3516  
Houston, TX 77002

Additional Notice Parties

Attn: Mark Bankson, William Ogden  
Kaster Lynch Farrar & Ball, LLP  
1117 Herkimer Street  
Houston, TX 77008

Attn: Alinor C. Sterlin, Christopher Mattei,  
Matthew Blumenthal  
Koskoff Koskoff & Bieder  
350 Fairfield Avenue  
Bridgeport, CT 06604